

NOV 3 2006
FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

2006 NOV -3 P 12: 09

In the Matter of
Sierra Club, Inc

MUR 5638

SENSITIVE

GENERAL COUNSEL'S REPORT # 3

I. ACTIONS RECOMMENDED: Accept the attached signed conciliation agreement
with Sierra Club, Inc. and close the file.

II. BACKGROUND

On July 19, 2006, the Commission found probable cause to believe that Sierra Club, Inc
("Sierra Club") violated 2 U.S.C § 441b(a) by using corporate funds to make an independent
expenditure, a pamphlet entitled "Let your Conscience be your Guide."

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Specifically, this matter represents the first matter since the Supreme

Court's decision in *McConnell v. FEC*, 540 U.S. 93 (2003), in which the Commission found probable cause based not only on 11 C.F.R. § 100.22(a) but 100.22(b), as well, and is the first matter since MUR 5024R (Council for Responsible Government) to conciliate based on section 100.22(b).² Accordingly, we recommend the agreement be approved.

IV. RECOMMENDATIONS

1. Accept the attached Conciliation Agreement with Sierra Club, Inc.
2. Approve the appropriate letters.

² The impact of MUR 5024R was arguably limited inasmuch as it was resolved only after a remand from a district court in a case brought under 2 U.S.C. § 437g(a)(8), and the organization at issue was long defunct

3. Close the file.

11/2/06
Date

Lawrence H. Norton
Lawrence H. Norton
General Counsel

Lawrence L. Calvert, Jr.
Lawrence L. Calvert, Jr.
Deputy Associate General Counsel
for Enforcement

Susan L. Lebeaux
Susan L. Lebeaux
Assistant General Counsel

Roy Q. Lockett / by SLI
Roy Q. Lockett
Attorney

Attachment:
Conciliation Agreement